

The National Guard State Partnership Program: Background, Issues, and Options for Congress

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Summary

The State Partnership Program (SPP) is a Department of Defense (DOD) security cooperation program run by the National Guard. It also serves as a mechanism for training National Guard personnel. Since the program began in 1992, it has expanded to the point where nearly every state National Guard participates, as do the National Guard of Guam, Puerto Rico, the U.S. Virgin Islands, and the District of Columbia.

The SPP relates to several areas of potential interest to Congress, including improving the capabilities of partner nations to protect their citizens; strengthening relationships with partners to facilitate cooperation, access, and interoperability; improving cultural awareness and skills among U.S. military personnel; and fostering the integration of reserve and active component forces into a “total force.”

In addition, the rapid expansion of the SPP has led to congressional scrutiny of the conformity of some SPP activities with the law, the effectiveness of the program, and the relationship of SPP activities to the priorities of U.S. geographic combatant commanders and U.S. ambassadors abroad. Congressional interest in SPP is also tied to broader concerns that some DOD security cooperation activities may encroach on, complicate, or conflict with State Department and U.S. Agency for International Development (USAID) responsibilities and prerogatives.

The SPP conducts a variety of activities in support of partner nations, including

- exchanges of subject matter experts,
- demonstrations of certain military capabilities,
- discussions of policy issues, and
- visits between senior leaders of a state National Guard and senior leaders of the partner nations armed forces.

These interactions commonly focus on topics such as disaster management, command and control, search and rescue, border operations, military medicine, and military education. In some of the more developed partnerships, teams of National Guard personnel have embedded with the military forces of its partner nations as they prepared for and deployed to Afghanistan, Iraq, and Kosovo.

The SPP is based on general statutory authorities used by active and reserve component forces to conduct security cooperation. Some unique aspects of the SPP include

- the potential for establishing enduring relationships between individuals in the state National Guard and their peers in the partner nation’s armed forces;
- the ability to share specialized expertise about topics such as disaster response, civil disorder, counter-narcotics operations, and border security; and
- the ability to link senior officials of a state with senior officials of a foreign nation, which can open avenues for greater cooperation between the state and the partner nation in non-military areas.

This report traces the origin and development of the program; summarizes its unique aspects; and outlines its statutory basis, funding mechanisms, organization, and activities. It details recent legislative and executive branch actions. It also explores issues that may merit congressional attention and provides options for policymakers who may be interested in modifying the program.

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Introduction

The State Partnership Program (SPP) is a Department of Defense (DOD) security cooperation program run by the National Guard. It also serves as a mechanism for training National Guard personnel. The current goals of the program are listed in **Figure 1**.¹ The SPP relates to several areas of potential interest to Congress, including improving the capabilities of partner nations to protect their citizens; strengthening relationships with partners to facilitate cooperation, access, and interoperability; improving cultural awareness and skills among U.S. military personnel; and fostering the integration of reserve and active component forces into a “total force.”

The SPP evolved from an effort begun in 1992 to use professional contacts between the U.S. military and the militaries of the newly independent nations of the former Soviet Union to help reform the defense establishments of those nations. The program has expanded greatly since then. Today, it is a significant component of DOD’s security cooperation efforts, linking state and territorial National Guards in 63 partnerships with 70 partner nations (listed in **Appendix A**).² Nearly every state National Guard participates in the SPP, as do the National Guard of Guam, Puerto Rico, the U.S. Virgin Islands, and the District of Columbia.³

The SPP’s rapid expansion has led to congressional scrutiny of

- the conformity of some SPP activities with the law,
- the effectiveness of the program, and
- the relationship of SPP activities to the priorities of U.S. geographic combatant commanders and U.S. ambassadors abroad.

Congressional interest in SPP is also tied to broader concerns that some DOD security cooperation activities may encroach on, complicate, or conflict with State Department and U.S. Agency for International Development (USAID) responsibilities and prerogatives.

Security Cooperation

Security cooperation is a broad term, defined by DOD as those interactions between DOD and foreign defense establishments, which

- build defense relationships that promote specific U.S. security interests,
- develop allied and friendly military capabilities for self-defense and multinational operations, and
- provide U.S. forces with peacetime and contingency access to a host nation.⁴

The U.S. military conducts a wide variety of security cooperation activities, including security assistance, counter-drug support, “train and equip” assistance, exercises with foreign countries, fellowships, educational exchanges, humanitarian assistance, disaster relief and military-to-military contact programs.

¹ The National Guard Bureau is in the process of developing new goals, tentatively scheduled to take effect in FY2012, to align with the May 2010 National Security Strategy.

² There are 63 partnerships with 70 foreign countries due to the partnership between the National Guards of Florida and the U.S. Virgin Islands National Guard with the Regional Security System (RSS), a collective security agreement for seven island nations in the Eastern Caribbean. The seven nations that participate in the RSS are Antigua and Barbuda, Barbados, Dominica, Grenada, Saint Kitts and Nevis, Saint Lucia, and Saint Vincent and the Grenadines.

³ For a list of all current partnerships, see **Appendix A**. At present, South Carolina and Nevada do not have partnerships, although they both had one previously (South Carolina and Albania; Nevada and Turkmenistan). Additionally, South Carolina currently participates in the Utah-Morocco partnership.

⁴ Adapted from Department of Defense, Joint Publication 1-02, *Department of Defense Dictionary of Military and Associated Terms*, Washington, DC, as amended through April 2010, available at http://www.dtic.mil/doctrine/dod_dictionary/.

As previous published research on the program is limited, this report relies heavily on interviews with individuals at DOD, the National Guard Bureau (NGB), and the Department of State (DOS) who are involved with the program.

Figure I. State Partnership Program Goals, FY2008-FY2013

State Partnership Program Goals, FY2008-FY2013 as defined by the National Guard Bureau's International Affairs Division
<p>Goal 1: Build Partnership Capacity to Deter, Prevent, and Prepare Goal 1 focuses on activities designed to build [a] nation's or region's preventative capabilities to dissuade/avert attack or prepare for natural/man-made disasters, emphasizing civil-military and interagency cooperation. Examples include anti-terrorism, anti-coercion, disaster preparation, border/environs security, and transnational crime deterrence.</p> <p>Goal 2: Build Partnership Capacity to Respond and Recover Goal 2 focuses on activities designed to build [a] nation's or region's responsive capabilities to respond and recover from attacks or natural/man-made disasters, emphasizing civil-military and interagency cooperation. Examples include counter-terrorism, counter-coercion, disaster response, border/environs enforcement, and transnational crime response.</p> <p>Goal 3: Support Partners' Defense Reform & Professional Development Goal 3 focuses on activities designed to assist nations in transforming defense structures and personnel to meet the challenges of the 21st century. Examples include coalition operations, civil-military and interagency cooperation, civilian control of the military, reserve components, and officer/NCO professional development.</p> <p>Goal 4: Enable and Facilitate Enduring Broad-Spectrum Security Relationships Focused on activities designed to build a nation's capabilities to cooperate and collaborate regionally and globally on a wide range of security and socio-political issues in support of [the Department of State] and other lead agencies. Examples include regional peace/stability, health, education, culture, economic, environment, and agricultural cooperation.</p> <p>Note: National Guard State Partnership Program, <i>Program Goals Fiscal Year 2008-13</i>, National Guard Bureau, JS International Affairs Division (NGB-JS/IA), 5 September 2007, p. 2.</p>

Background

Origin and Expansion of the State Partnership Program⁵

As the Soviet Union disintegrated between 1989 and 1991, U.S. government officials explored options to minimize instability and encourage democratic governments in the former Soviet bloc nations. One effort to address these policy goals was to expand military-to-military contacts with the newly independent states of Central and Eastern Europe to promote subordination to civilian leadership, respect for human rights, and a defensively oriented military posture. At the time, most of these newly independent states had militaries that were based on the Soviet model and focused on countering threats from NATO nations. The United States European Command (USEUCOM) took the lead in this effort by establishing the Joint Contact Team Program (JCTP) in 1992. The JCTP was originally composed of active component personnel and included members of the special forces because of their language skills. However, when the JCTP began to engage the Baltic nations of Latvia, Estonia, and Lithuania, senior defense officials insisted that National Guard and Reserve personnel play a leading role in any military liaison teams operating in those countries, apparently in response to those governments' desire to establish reserve-centric

⁵ The first two paragraphs of this section rely heavily on the work of Robert T. Cossaboom, *The Joint Contact Team Program: Contacts with the Former Soviet Republics and Warsaw Pact Nations, 1992-1994* (Washington, DC: Joint History Office, Office of the Chairman of the Joint Chiefs of Staff, 1997).

defense establishments and to assuage Russian concerns about U.S. expansion into its former satellites.

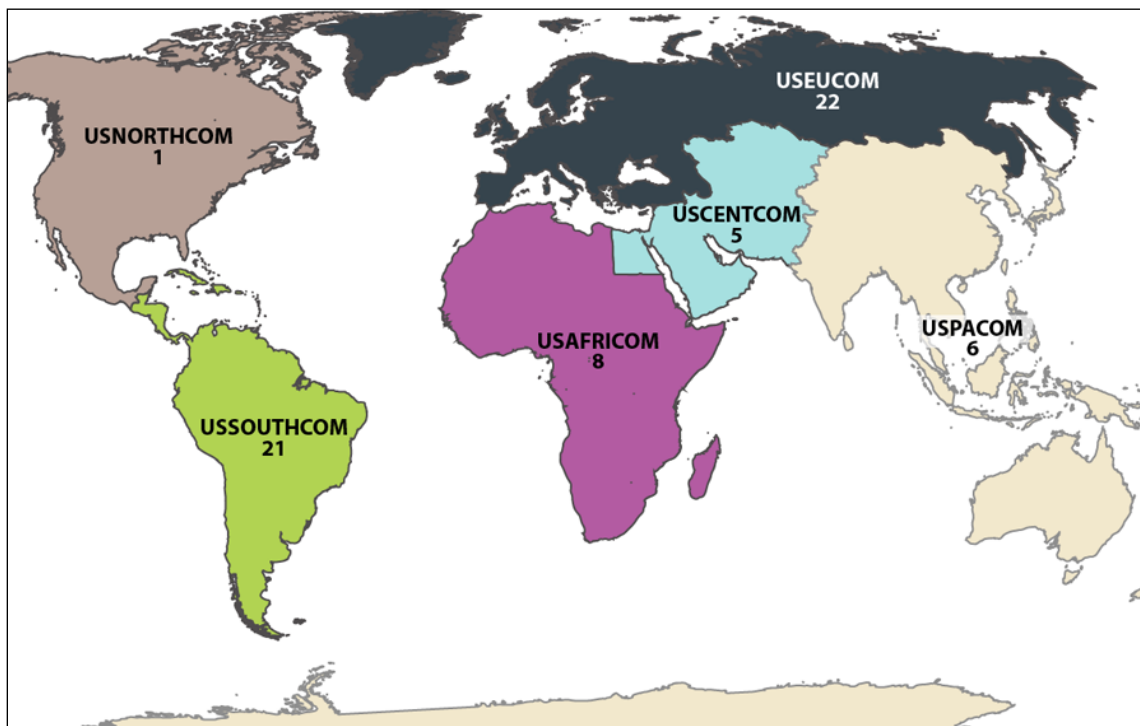
In November 1992, Lieutenant General John Conway, the Chief of the National Guard Bureau, and Brigadier General Thomas Lennon, head of the JCTP, visited the Baltics. A few months after their trip, in early 1993, the National Guard initiated the first state partnerships: New York-Estonia, Michigan-Latvia, and Pennsylvania-Lithuania. Additional partnerships were proposed later in 1993 for Albania, Belarus, Bulgaria, the Czech Republic, Hungary, Kazakhstan, Romania, Poland, Slovakia, Slovenia, and Ukraine. The SPP benefited the JCTP by providing additional personnel, funding, and access to military personnel from U.S. ethnic-heritage communities who often had relevant language and cultural skills.

Today, USEUCOM has 22 state partnerships. The SPP has also expanded beyond USEUCOM to other combatant commands (COCOMs) as shown in **Figure 2**.

- United States Central Command (USCENTCOM) established its first partnership in 1995, between Arizona and Kazakhstan, and now has five partnerships.
- United States Southern Command (USSOUTHCOM) established four partnerships in 1996—Missouri-Panama, Louisiana-Belize, Kentucky-Ecuador, and West Virginia-Peru—and today has 21 partnerships.
- United States Pacific Command (USPACOM) established a partnership with two states—Guam and Hawaii—and the Philippines in 2000. It currently has six partnerships.
- United States Africa Command (USAFRICOM) established its first partnership, New York-South Africa, in 2003, while much of Africa was still part of USEUCOM. It currently has eight partnerships.
- United States Northern Command (USNORTHCOM) has one partnership, Rhode Island-Bahamas. It was established in 2005, when the Bahamas was within the USSOUTHCOM area of responsibility.

See **Appendix A** for a full list of current state partnerships.

Figure 2. Number of Partnerships in each Combatant Command
July 2011



Source: Congressional Research Service graphic based on data provided by the National Guard Bureau.

Typical Missions Performed

The SPP conducts a variety of activities in support of partner nations. A list of some common types of partnership activities are provided below, along with a brief summary and an illustrative example. According to NGB, the typical SPP event is a week-long subject matter expert exchange, with three to five National Guard subject matter experts participating, with an average cost of approximately \$20,000.

- **Subject Matter Expert Exchanges.** During these events, National Guard personnel with expertise in a certain area share their knowledge with partner nation personnel. For example, in 2005

[t]he Uruguayan Army's Infantry and Engineer units in Montevideo and Maldonado hosted the visit of U.S. Army National Guardsmen from Connecticut. During the [subject matter expert exchange], delegates visited Uruguayan Army units and discussed a wide range of topics to include peacekeeping and humanitarian de-mining operations, infantry and engineer training, as well as soldier and officer training at unit level.⁶

- **Familiarizations.** These are demonstrations of certain capabilities that the Army or Air National Guard has, or discussions of policy issues related to those capabilities. For example,

⁶ Announcement by National Guard Bureau of International Affairs (J5-IA), "Delegates visited Uruguayan Army units and discussed a wide range of topics," available at http://www.ng.mil/ia_backup/states/states/ct_uruguay.htm.

in the late 1990s, the Pennsylvania National Guard was instrumental in assisting Lithuania with the development of their Non-Commissioned Officer (NCO) Academy, which was modeled after the U.S. NCO Education System. A total of 26 Lithuanian officers participated in five train-the-trainer familiarization visits to Pennsylvania, with the focus on curriculum development for NCO course preparation at the newly created Lithuanian NCO Academy in Kaunas. These officers became acquainted with a diversity of topics such as medical specialist instructor course development; field artillery NCO course development; leadership; training management; democratic civil-military relations; NCO development; interoperability; and emergency operations.⁷

- **Senior Leader Visits.** These are visits between senior leaders of the state National Guard, such as the adjutant general, and senior leaders of the partner nation's armed forces. For example,

[i]n May 2001, the Georgia Guard had the honor of hosting 12 representatives from the Republic of Georgia along with representatives from the United States Department of State, [the] Office of the Secretary of Defense, the Joint Staff and others for the Bilateral Working Group in Savannah, Georgia. The high-level discussions focused on Defense Reform, the Georgia Guard State Partnership Program, the Georgia Border Security Program, and the Helicopter Program. Participants were also able to observe a B-1B bombing demonstration at Hunter Army Airfield and activities at the Georgia Air National Guard Combat Readiness Training Center.⁸

- **Operational Mentor and Liaison Teams.** Operational Mentor and Liaison Teams (OMLTs) provide mentoring and training for the Afghan National Army (ANA) and serve as liaisons between the ANA and the International Security Assistance Force (ISAF) in Afghanistan. They are composed of 13-30 personnel from one or more countries.⁹ National Guard personnel have embedded with their partner nation's OMLTs and accompanied them throughout their deployments to Afghanistan (they have also conducted similar embedded operations with partner nation forces in Iraq and Kosovo). One such deployment from 2010 is described as follows:

Eleven Colorado Army National Guard Soldiers will pair up with 90 Slovenian soldiers and deploy to Afghanistan this October to form an Operational Mentor and Liaison Team. Their combined mission will be to train and mentor an Afghan National Army infantry battalion, better empowering it in the use of infantry maneuvers and tactics, so the ANA can ultimately take control of its military operations ... The [Colorado National Guard] and the Republic of Slovenia have become strong allies over their 17-year collaboration through the National Guard's State Partnership Program.¹⁰

The focus of SPP activities varies depending on the needs of the partner nation, the capabilities of the state National Guard, the goals of the respective U.S. ambassador and the combatant commander, and statutory authorities and restrictions. Some common focus areas are

⁷ Announcement by National Guard Bureau of International Affairs (J5-IA), "Pennsylvania National Guard State Partnership Program in the Republic of Lithuania," available at http://www.ng.mil/ia_backup/states/states/pa_lithuania%5B1%5D.htm.

⁸ Announcement by National Guard Bureau of International Affairs (J5-IA), "Georgia National Guard State Partnership Program in the Republic of Georgia," available at http://www.ng.mil/ia_backup/states/states/ga_georgia.htm.

⁹ NATO Headquarters, *Fact Sheet: NATO's Operational Mentor and Liaison Teams*, June 2010, available at <http://www.isaf.nato.int/images/stories/File/factsheets-june/June%202010-Fact%20Sheet%20OMLT.pdf>.

¹⁰ Bethany Fehringer, *Colorado Guard Soldiers Train, Deploy with Slovenians*, September 7, 2010, available at http://co.ng.mil/News/Pages/100930_OMLT.aspx.

- disaster management and disaster relief activities,
- military education,
- non-commissioned officer development,
- command and control,
- search and rescue,
- border operations,
- military medicine,
- port security, and
- military justice.

Unique Aspects of the SPP

The SPP is based upon a variety of statutory authorities (detailed in the section entitled “Statutory Authorities”). None of these authorities are specific to the SPP. They are authorities used generally by active and reserve component forces to conduct security cooperation activities. Accordingly, the SPP shares many similarities with other security cooperation activities carried out by the military. However, there are at least four factors that make the SPP unique.

Enduring Relationships

One unique aspect of the SPP is the ability to forge relationships between particular individuals over a long period of time. For active component personnel, a duty assignment that includes regular contact with the military of a foreign nation would typically last for about two to three years. At the end of the tour of duty, the U.S. servicemember would normally be reassigned as part of his or her career progression. In contrast, National Guard personnel participating in the SPP may well participate in engagements with partner nation military personnel repeatedly throughout their career. This is due to both the duration of the state National Guard and foreign nation partnership—some of which have been in existence for nearly two decades—and the frequency with which National Guard personnel serve their entire reserve careers within one state National Guard. Thus, for example, individuals who joined the Michigan National Guard in 1993 and continued to serve to the present would have had the opportunity to participate in SPP activities with Latvia numerous times over the past 18 years. In that time, both the Guard personnel and the foreign military personnel with whom they engaged will have been promoted to higher ranks, potentially providing for strong relationships between the now fairly senior National Guard and foreign military personnel. The ability to develop such long-term relationships are rare for active component personnel because of career assignment policies. An additional benefit of an enduring relationship is that it provides National Guard personnel with the opportunity to develop cultural knowledge, and potentially even language skills, based on their recurring contacts with the partner nation.¹¹

¹¹ Language, regional and cultural skills were identified as “critical enablers” in the 2010 Quadrennial Defense Review, which favorably noted a number of departmental initiatives to improve these skills. See Department of Defense, *Quadrennial Defense Review Report*, Washington, DC, February 2010, pp. 18, 25, 29, 54, and 75, http://www.defense.gov/qdr/images/QDR_as_of_12Feb10_1000.pdf. Congress has also expressed interest in language, regional and cultural skills as evidenced by several provisions in recent National Defense Authorization Acts.

Special Capabilities

Another aspect of the SPP that distinguishes it from similar engagements by active component forces stems from the National Guard's dual status as both a state and a federal organization. In its federal status, the National Guard is a reserve component of the Army and the Air Force and is trained, organized, and equipped to conduct a wide spectrum of military activities. However, the National Guard is also the organized militia of each state and in that capacity it routinely operates under the control of its state governor, typically to respond to disasters and civil disorders.¹²

National Guard personnel in a "Title 32 status"¹³ have also conducted counterdrug, border security, and airport security missions. The practical expertise the National Guard has acquired in these areas may be complemented by the skills that National Guard personnel develop in their civilian occupations. For example, a National Guard soldier may serve as an infantryman in his Guard unit, but may be a state trooper, paramedic, or emergency dispatcher in his civilian job.¹⁴

The expertise that National Guard units have acquired in conducting these types of operations are often in demand among foreign militaries, which frequently play a major role in their nation's disaster response plans, and which may play significant roles in their nation's border security, civil disorder, or counterdrug operations. Although active component forces have significant expertise in these areas—as evidenced, for example, by the role played by active component personnel in responding to the earthquake in Haiti and the floods in Pakistan in 2010—it is typically not exercised with the frequency of National Guard forces and, in certain cases, is intentionally limited by law.¹⁵

Nations Engaged

There is a limited supply of U.S. forces available to conduct security cooperation activities with foreign nations. Thus, combatant commanders target security cooperation activities toward foreign nations that they deem most important to engage at a given time. Some nations do not

¹² Unlike the Reserves, which are exclusively federal organizations, the National Guard is usually both a state and a federal organization. The National Guard of the United States is made up of 54 separate National Guard organizations: one for each state and one each for Puerto Rico, Guam, the U.S. Virgin Islands, and the District of Columbia. While the District of Columbia National Guard is an exclusively federal organization and operates under federal control at all times, the other 53 National Guards operate as state or territorial organizations most of the time. In this capacity, each of these 53 organizations is identified by its state or territorial name (e.g., the California National Guard or the Puerto Rico National Guard) and is controlled by its respective governor.

¹³ "Title 32 status" refers to the part of the *U.S. Code* that governs this duty status. National Guard personnel in Title 32 status operate under state control but with pay and benefits provided by the federal government. Typical duties performed in this status include inactive duty for training ("weekend drill") and annual training (AT) within the United States, but may also include other duties under 32 USC 502(f). This is the provision of law that was used to provide federal pay and benefits to the Guard personnel called up to provide security at many of the nation's airports in the aftermath of the terrorist attacks of September 11, 2001, to respond to Hurricanes Katrina and Rita in 2005, and to assist with security on the southwest border in 2006-2008 and 2010-2011.

¹⁴ More broadly, National Guard personnel may have civilian skills outside of the "security sector" that can be of value to partner nations. For example, they may have expertise in agriculture, health care, education, public utilities, and logistics.

¹⁵ Most notably, the Posse Comitatus Act (18 USC 1385), along with other related laws and administrative provisions, prohibits the use of the military to execute civilian laws unless expressly authorized by the Constitution or an act of Congress. Active component forces are covered by these provisions. However, when acting in its capacity as the organized militia of a state, the National Guard is not part of the federal military and thus is not covered by the Posse Comitatus Act. Only when it is called into federal service does the National Guard become subject to the act. As such, the National Guard can be used by state authorities to enforce the law. For example, while acting in a state controlled capacity, the National Guard has been used for riot control, counter-drug activities, and airport security.

“compete well” in this process and are passed over for security cooperation activities. Combatant commanders target SPP activities toward their engagement priorities as well, but so long as a partnership exists a baseline level of roughly three SPP events per year are conducted even if the foreign nation is considered to be a comparatively low priority for engagement. From one perspective, this may be considered a long-term investment in nations that, while not currently priorities for engagement, may well become so in the future. From another perspective, this can be interpreted as a misallocation of limited resources; the National Guard assets might be better used engaging with higher priority nations.

Relationship with States

A final area in which the SPP differs from active component security cooperation activities lies in the role of individual states in the relationship. Active component security cooperation activities are purely federal in nature; there is no connection with any U.S. state. SPP activities have both a federal and a state connection, and this latter relationship can be important from several perspectives. For the state and the foreign nation, the SPP provides a link between senior state and foreign nation officials. The adjutant general (the head of a state National Guard) is typically a senior official in his or her state government, normally heading up the state department of military affairs, and sometimes leading the state department of emergency management or homeland security.¹⁶ This can provide a conduit for the state and the foreign nation to develop relationships beyond that with the state National Guard—for example, enhancing economic ties or conducting educational exchanges. From the federal perspective, a strong relationship between a state and a foreign nation could potentially contribute to a stronger relationship between the United States and the foreign nation.¹⁷ On the other hand, conflicts of interest could conceivably develop between the state and the United States in their relationships with the partner nation.¹⁸

Statutory Authorities

The SPP has no dedicated statutory authority; rather, SPP activities are currently carried out under one or more Title 10 (Armed Forces), Title 32 (National Guard) and National Defense Authorization Act authorities that are related to the types of missions conducted. The main authorities that may be used by SPP are discussed below and summarized in **Appendix B**. There are circumstances in which a state National Guard may operate under Title 22 (Foreign Relations and Intercourse) authorities in support of their partner nation, but these activities are not considered to be “SPP events” by NGB.¹⁹ For a fuller discussion of such Title 22 activities, see **Appendix C**.

¹⁶ For an overview of the roles played by adjutants general in the various states and territories, see Library of Congress Federal Research Division, *A Guide to Directors of Homeland Security, Emergency Management, and Military Departments in the States and Territories of the United States*, Washington, DC, December 2007, http://www.loc.gov/rr/frd/pdf-files/CNGR_Guide-State-Directors-Rev.pdf.

¹⁷ For example, a strong state partnership could generate greater economic ties between the United States and the foreign nation and instill an appreciation of American values among the citizens and leaders of the foreign nation.

¹⁸ A hypothetical example: Country A and Country B are competitors, and the United States desires to maintain favorable relations with both of them. The governor of the state partnered with Country A is enthusiastic about building economic and cultural ties and launches various initiatives to that effect, while the governor of the state partnered with Country B does not consider the relationship particularly important. The leadership of Country B may resent the stronger partnership that Country A has, and express this resentment in its dealings with the United States government.

¹⁹ According to NGB representatives, SPP events only occur under Title 10, Title 32 and National Defense Authorization Act authorities; any activity carried out by a state National Guard and its partner nation under a Title 22 authority is, by definition, not an SPP event.

One authority under which SPP activities may be carried out is 10 U.S.C. 168. It provides authority for the Secretary of Defense to fund military-to-military contacts “that are designed to encourage a democratic orientation of defense establishments and military forces of other countries.” Under 10 U.S.C. 168, the Secretary may provide funds for nine specific purposes: (1) the activities of traveling contact teams, including transportation, translation services, or administrative expenses; (2) the activities of military liaison teams; (3) exchanges of civilian or military personnel between DOD and defense ministries of foreign governments; (4) exchanges of military personnel between units of the armed forces and units of foreign armed forces; (5) seminars and conferences held primarily in a theater of operations; (6) distribution of publications primarily in a theater of operations; (7) personnel expenses for DOD civilian and military personnel to the extent that these expenses relate to participation in an activity described at (3), (4), (5), or (6) above; (8) reimbursement of military personnel appropriations accounts for the pay and allowances paid to reserve component personnel for service while engaged in any of these activities; and (9) the assignment of personnel described in (3) and (4) can be made on a non-reciprocal basis if the Secretary of Defense considers such an assignment in the interest of the United States.

SPP activities may also use other authorities, including

- **10 U.S.C. 1051 (Bilateral or Regional Cooperation Programs).** This provision authorizes the Secretary of Defense to pay the travel, subsistence, and similar personal expenses of defense personnel of developing countries in connection with their attendance at a bilateral or regional conference, seminar, or similar meeting, with certain restrictions. An amendment in 2002 specifically extended this authority to NATO Partnership for Peace (PfP) country personnel traveling to other PfP countries. Section 1051 requires that the Secretary of Defense determine whether payment of authorized expenses is in the interest of U.S. national security.
- **10 U.S.C. 1050 (Latin American Cooperation).** Section 1050 is similar to Section 1051, but specifically applies to the travel, subsistence, and special compensation of officers and students of Latin American countries and other expenses that the Secretary considers necessary for Latin American cooperation.
- **10 USC 1050a (African Cooperation).** Section 1050a is nearly identical to Section 1050, except that it applies to officers and students of African nations.
- **10 U.S.C. 2010 (Combined Exercises).** This provision authorizes the Secretary of Defense, after consultation with the Secretary of State, to pay incremental expenses incurred by a developing country as a direct result of participation in bilateral or multilateral military exercises. It requires that the exercises be undertaken primarily to enhance the security interests of the United States and that the Secretary of Defense determine whether a country’s participation is necessary to achieve the fundamental objectives of the exercise.

Another set of authorities revolve around humanitarian and civic assistance. Of the Overseas Humanitarian, Disaster Assistance, and Civic Assistance (OHDACA) programs, officials interviewed by CRS specifically mentioned 10 U.S.C. 401 and 2561.

- **10 U.S.C. 401 (Humanitarian and Civic Assistance).** This provision authorizes DOD to carry out humanitarian and civic assistance activities in host nations in conjunction with military operations, if the activities promote the security interests of both nations and benefit the operational readiness skills of participating armed forces personnel. Humanitarian and civic assistance is

defined to include medical, surgical, dental, and veterinary care in rural and underserved communities, rudimentary construction and repair of public buildings, well drilling, and construction of sanitary facilities and rudimentary surface transportation systems.

- **10 U.S.C. 2561 (Humanitarian Assistance).** This provision authorizes the expenditure of humanitarian assistance funds for the transportation of humanitarian relief and other humanitarian purposes.

Other humanitarian assistance authorities may also be used, however, including 10 U.S.C. 402, 404, and 2557 (see **Appendix B** for a brief description of each).

Several other security cooperation authorities have also been used in conjunction with SPP activities according to those interviewed by CRS. One is 10 U.S.C. 2249c, the Regional Defense Combating Terrorism Fellowship Program (CTFP), which authorizes the use of funds to pay the costs associated with the attendance of foreign military officers, ministry of defense officials, or security officials at U.S. military educational institutions, regional centers, conferences, seminars, and at civilian venues, or other training programs conducted under the CTFP. Another is the “Section 1206” building partnership capacity funding authority established by Section 1206 of the FY2006 National Defense Authorization Act (P.L. 109-163, as extended and amended).²⁰ A third is the Cooperative Threat Reduction Program, which funds expenses related to preventing weapons proliferation and other activities.²¹

For SPP events conducted overseas, National Guard members are typically placed in a duty status by orders issued under the authority of 10 U.S.C. 12301. For SPP events conducted within the United States, National Guard members are placed in a duty status by order issued under 32 U.S.C. 502. This permits the participating members to receive appropriate military pay and benefits.

Funding Mechanisms

Current funding for SPP activities includes the pay and allowances for the National Guard participants, which are normally funded by the Army and Air National Guard Personnel accounts of DOD appropriations. However, those who serve overseas full-time in support of the program (see “Institutional Arrangements” section) have their pay and allowances covered by the active component Army or Air Force Personnel account. Other significant costs for SPP are travel-related expenses, such as transportation, lodging, and meals. These expenses may be incurred by National Guard personnel or foreign military personnel participating in an SPP event. Such travel-related expenses are typically paid for out of one of the Operations and Maintenance (O&M) accounts, although some of the travel expenses for National Guard personnel may be paid out of Personnel accounts. This O&M funding has historically flowed to SPP through a number of programs and activities:

- Traditional Combatant Commander’s Activities (TCA)
- National Guard Bureau’s International Affairs Division

²⁰ Section 1206 authority has been used to train and equip foreign units deploying to Afghanistan, including deployments where National Guard personnel accompany their partner nation forces. See the discussion of Operational Mentor and Liaison Teams under “Typical Missions Performed”.

²¹ The Cooperative Threat Reduction Program is authorized through several pieces of legislation, including an amendment to implementing legislation for the Conventional Armed Forces in Europe (CFE) Treaty (P.L. 102-228) establishing the Soviet Nuclear Threat Reduction Act of 1991, Title XIV of the National Defense Authorization Act for FY1993 (P.L. 102-484), and Title XII of the National Defense Authorization Act for FY1993 (P.L. 103-160).

- Combatant Commander's Initiative Fund (CCIF)
- Warsaw Initiative Fund/Partnership for Peace (WIF/PfP)
- Combating Terrorism Fellowship Program (CTFP)
- Cooperative Threat Reduction Program (CTR)
- Asia-Pacific Regional Initiative Fund (APRI)
- Latin American Cooperation (LATAM COOP)
- Overseas Humanitarian, Disaster, and Civic Assistance (OHDCA)
- Minuteman Fellowship (MMF; no longer in existence)

Institutional Arrangements

Much of the management of SPP activities is handled by SPP coordinators assigned to each state's National Guard headquarters, and by military officers assigned full-time to the U.S. embassy accredited to the partner nation—normally from the state National Guard involved in the partnership—whose duty description includes coordinating SPP and often other DOD security cooperation activities. The COCOMs manage this latter group, providing for their pay and performance evaluations. These officers serve in a Title 10 status, typically hold the rank of Captain through Lieutenant Colonel, but have different titles and tours of duty depending on the COCOM to which they are assigned. For example, officers serving in embassies within the USEUCOM area of responsibility are known as Bilateral Affairs Officers (BAOs) and serve two-year tours, which can be extended. Those in the USSOUTHCOM area of responsibility are known as Traditional Commander's Activities coordinators (TCAs) and are usually on six-month temporary duty assignments, which can be extended. In nations without a BAO, TCA, or similar officer, the state's SPP coordinator travels to the partner nation to coordinate SPP activities. The National Guard Bureau would prefer to have a BAO, TCA, or similar officer stationed at the U.S. embassy for each of the 63 partnerships, and it is currently working on a plan to fund this.

According to NGB representatives interviewed for this report, the U.S. ambassador to a given country must approve the establishment of a state partnership with that nation, as well as all SPP activities conducted therein. The process normally requires approval by the ambassador, combatant commander, and the state National Guard before activities are conducted.²² If NGB funds are used for an activity, the NGB must also approve the activity. In a "model" flow scheme, proposed activities are (1) developed by the BAO, TCA, or SPP coordinator with the partner countries; (2) discussed with and approved by the home state National Guard; (3) presented to the ambassador for approval; and (4) presented to the combatant commander for final approval. However, the actual process for coordinating SPP activities varies by country and COCOM.

Concerns About the SPP

Three broad concerns about the SPP have arisen. First, some past SPP events have included funding for engagements involving U.S. civilians and foreign civilians when such funding appears to have been beyond the scope of the law. Second, some allege that SPP activities have not always been effectively linked to the priorities of the combatant commander and the U.S. ambassador. Third, at a more general level, some are concerned that DOD security cooperation

²² Section 1210 of the National Defense Authorization Act for FY2010, discussed later, prohibited funds from being expended for SPP activities in foreign countries unless the activities were jointly approved by the combatant commander and the chief of mission. Prior to this, such joint approval appears to have been part of the normal procedure for SPP events, although it is unclear whether this procedure was followed in all cases.

activities, including SPP events, extend the influence of the U.S. military too far into the domain of the Department of State and the U.S. Agency for International Development, resulting in a “militarization of foreign policy.” Each of these concerns is discussed below.

Civilian Engagements

The SPP relies on a wide variety of statutory authorities to conduct its activities. Some of these authorities are more permissive than others in terms of civilian engagement. For example, 10 U.S.C. 401 authorizes U.S. military personnel to provide “humanitarian and civic assistance” in certain circumstances. Coordinating such assistance might require engagement with civilian officials from the partner nation’s health, public safety, or transportation ministries. On the other hand, 10 U.S.C. 168 is targeted toward “military-to-military contacts and comparable activities” and most of the authorized activities under this provision involve U.S. or foreign military personnel only. Funding for exchanges with foreign civilian personnel are authorized, but only if they are part of the defense ministry of a foreign government.²³

Concerns have been raised that certain past SPP events may have funded U.S. or foreign civilian participation when such funding was outside the scope of the statutes involved.²⁴ Such concerns appear to be the genesis of the statutory language in the National Defense Authorization Act (NDAA) for FY2010 to require regulations on the use of funds for SPP activities and to mandate reports on “civilian engagement activities” conducted under SPP (see “Recent Legislative and Executive Branch Activity”). While DOD has not yet submitted the required reports to Congress on civilian engagement activities, it appears that during 2009 and 2010, the SPP spent slightly more than \$1 million per year on costs associated with U.S. and foreign civilians participating in SPP events, although it is unclear what proportion of these civilian engagements, if any, were not in compliance with statutory requirements.²⁵ According to some DOD representatives, combatant commanders have recently been told to carefully examine programs to ensure that any foreign civilians participating in SPP activities are there at the request of the partner country’s Ministry of Defense (MOD) and contribute to the MOD’s ability to carry out its assigned mission. The NGB has stressed that the SPP no longer funds purely non-defense related civilian engagements, but simply acts as a sort of “clearing house” for information between interested civilian parties from the state and partner nation.

²³ See 10 U.S.C. 168(c)(3).

²⁴ Some National Guard representatives have cited appropriations report language related to the State Partnership Program as congressional authority to conduct military-to-civilian and civilian-to-civilian engagements. CRS was able to find one instance of this type of language in a House Appropriations Committee report, although there may be additional references elsewhere. H.Rept. 106-244, the report of the House Committee on Appropriations to accompany H.R. 2561, the Department of Defense Appropriations Bill, 2000, July 20, 1999, page 111 states:

The Committee recommends \$1,000,000 only for the National Guard’s State Partnership Program. The Committee directs that these funds be used to support theater engagement opportunities for National Guard soldiers and state civilian personnel who directly support the State Partnership Program and civil-military engagement goals and for the National Guard Minuteman Fellows Program which the Committee has supported in the past.

The \$1,000,000 funding recommendation was included in the final conference report, but the accompanying language regarding civil-military engagements was not.

²⁵ As noted in “Statutory Authorities” and **Appendix B**, certain types of civilian engagements may be authorized, depending on the authority invoked.

Integration with Priorities of Combatant Commanders and Ambassadors

A second concern about the SPP is that its activities in certain countries have not been well coordinated with the combatant command and the U.S. embassy, and as a result the activities have not always been effectively linked with the priorities of the combatant commander or the ambassador. It is difficult to assess the validity of this criticism with the limited data available. However, if accurate, these comments might indicate the need for more robust and standardized event coordination procedures to ensure that the priorities of the combatant commander and the ambassador are incorporated throughout the SPP activity planning process. In the past few years, the NGB has implemented procedures to address this concern for all of the SPP activities that it funds, but this does not necessarily apply to SPP activities funded in other ways.²⁶

Statute now prohibits funds from being expended for SPP activities in foreign countries unless the activities are jointly approved by the combatant commander and the chief of mission for the U.S. embassy (see “Recent Legislative and Executive Branch Activity”).²⁷ This is designed to ensure that all future SPP activities are fully coordinated with the combatant command and the U.S. embassy. However, the degree to which this requirement aligns SPP activities with combatant commanders’ and ambassadors’ priorities will depend on how it is implemented in each country. Events with a limited connection to these priorities could potentially be approved, simply because the National Guard is able to conduct the event and the partner nation wants to participate.

Encroachment on DOS and USAID Responsibilities

Some SPP activities are conducted in conjunction with authorities that are the subject of a broader concern about the “militarization” of U.S. foreign assistance.²⁸ These include, in particular, the “Section 1206” global train and equip authority (P.L. 109-163) and 10 U.S.C. 401 humanitarian and civic assistance authority. For several years, some policymakers and experts have criticized Section 1206 as a prominent example of the expansion of DOD authorities to train and educate foreign military forces. (For the past 50 years, programs to train, equip, and educate foreign military forces have generally been conducted under State Department authority). In addition, DOD’s use of humanitarian and civic assistance exercises has been criticized as at times inconsistent with or detrimental to long-term development goals in the countries where they are carried out. In many cases these experts argue, such activities should be conducted by military personnel under the aegis and funding of the State Department or USAID. The use of the National Guard for these activities may add further dimensions to the militarization debate. Deployed abroad, National Guard personnel are equivalent to other U.S. military personnel under

²⁶ Since 2008, all requests for funding from NGB have required that the event “be approved by the Embassy and COCOM”. Starting in FY2011, all requests for funding from NGB have had to include documentation that the SPP activities “clearly serve to support the U.S. Chief of Mission (COM) and GCC’s [Geographic Combatant Commander’s] theater and country security objectives.” However, the NGB does not fund all SPP events; those funded from other sources, such as the Combatant Commands, are not governed by this policy, although the funding source may have a similar policy in place. See National Guard Bureau, *National Guard Security Cooperation and State Partnership Program Guide: Part II, Program Management*, January 1, 2008, p. 30 and National Guard Bureau, International Affairs Division, *Memorandum for National Guard State Partnership Program Coordinators, Fiscal Year 2011 State Partnership Program Funding Guidance*, October 29, 2010, paragraph 4(a)(4).

²⁷ P.L. 111-84, Section 1210, October 28, 2009, National Defense Authorization Act for FY2010.

²⁸ For more on concerns over the militarization of U.S. foreign assistance, see CRS Report RL34639, *The Department of Defense Role in Foreign Assistance: Background, Major Issues, and Options for Congress*, coordinated by Nina M. Serafino, and CRS Report RS22855, *Security Assistance Reform: “Section 1206” Background and Issues for Congress*, by Nina M. Serafino.

U.S. law, but they may also bring to bear a civilian's skills, experiences, and sensibilities that may alleviate some concerns when and if drawn upon for missions abroad.

Recent Legislative and Executive Branch Activity

The Senate version of the National Defense Authorization Act for FY2010 contained a provision (Section 1212) addressing the availability of appropriated funds for the SPP. This provision permitted the Secretary of Defense to use funds appropriated to DOD in FY2010 to pay the costs incurred by the National Guard in conducting SPP activities to “(1) support the objectives of the commander of the combatant command for the theater of operations in which such activities are conducted” or “(2) to build international civil-military partnerships and capacity on matters relating to defense and security.” The provision also prohibited funds to be expended for activities in foreign countries unless the activities were jointly approved by the combatant commander and the chief of mission for the U.S. embassy. Finally, it allowed members of other federal agencies to participate in SPP activities, with their agencies reimbursing DOD for the cost associated with their participation.²⁹

The House version of the FY2010 NDAA had no similar provision.³⁰ The conferees agreed to revised language (Section 1210) to require the Secretary of Defense, in consultation with the Secretary of State, to prescribe regulations regarding the use of funds appropriated to DOD to pay for costs incurred by the National Guard in conducting activities under the SPP. It did not specify what types of activities were authorized as the Senate provision had. It included the prohibition on funds being expended for SPP activities in foreign countries unless the activities were jointly approved by the combatant commander and the chief of mission, but dropped the language concerning participation and reimbursement of expenses by personnel from other federal agencies. It also added a requirement that the Secretary of Defense submit a report to the Armed Services and Foreign Affairs Committees in the House and Senate describing “the civilian engagement activities conducted under the State Partnership Program, including a detailed description of the activities undertaken and funds expended in the previous fiscal year under the State Partnership Program.”³¹

In response to the FY2010 NDAA requirement that the Secretary of Defense prescribe regulations regarding the use of funds for SPP activities, DOD has drafted a Directive Type Memorandum (DTM) which is in the final stages of approval. In the interim, the NGB sent out a planning guidance memorandum in October 2010, which addressed the appropriate types and objectives of SPP events that use NGB funding. Among other things, this guidance requires that “[t]he event must be designed and executed such that the MoD of the PN [partner nation] is the focal point of SPP interaction,” “[t]he event objective(s) must clearly serve to support the U.S. Chief of Mission (CoM) and GCC’s [Geographic Combatant Commander’s] theater and country security objectives,” and “the event must be approved by the appropriate GCC and the U.S. CoM of the affected PN.”³²

The FY2010 NDAA also mandated that DOD provide certain congressional committees with a series of reports “describing the civilian engagement activities conducted under the State Partnership Program.” The first of these reports was due January 26, 2010, with additional reports on the topic due at the end of FY2010 through FY2013. As of this writing, neither the initial

²⁹ S. 1390.

³⁰ H.R. 2647.

³¹ P.L. 111-84, Section 1210, October 28, 2009, National Defense Authorization Act for FY2010.

³² National Guard Bureau, Memorandum for National Guard State Partnership Program Coordinators, “Fiscal Year 2011 State Partnership Program Funding Guidance,” paragraph 4(a), October 29, 2010.

report nor the FY2010 report had been submitted to Congress as required. However, it appears that during 2009 and 2010, the SPP spent slightly more than \$1 million per year on costs associated with U.S. and foreign civilians participating in SPP events.

Issues for Congress

Have SPP Activities Been Consistent with Statutory Authority?

Some decision makers have raised concerns about the nature of SPP activities. Some past SPP events may have included funding for U.S. civilian and foreign civilian participation when such funding was outside the scope of the statutes involved (see “Civilian Engagements”). The NGB has issued guidance intended to prevent such occurrences,³³ and the Department of Defense is expected to release a Directive Type Memorandum in the near future more clearly specifying authorized SPP activities.

Is SPP Effective?

In October 2010, the State Department in conjunction with the National Guard conducted a survey of U.S. ambassadors, asking them for their perspective on various aspects of the SPP. Of the 62 embassies surveyed, 41 responded. All but one respondent agreed that “the SPP was valuable in helping meet [the] Post’s goals and objectives.” Several combatant commanders have also commented favorably on the program during recent congressional testimony.³⁴ To date, however, written assessments of SPP have been limited in scope and focused on “outputs”—for example, the number and type of events conducted with partner nations—rather than on “outcomes,” such as improvements in specified capabilities of a partner nation or the impact on specific defense reform initiatives of a partner nation. This lack of data is not specific to SPP but, according to a recent RAND report, is common to security cooperation programs in general:

Security cooperation activities conducted by DoD entities with other nations’ defense organizations range from the very visible—training, equipping, and exercising together—to those that are less obvious, such as holding bilateral talks, workshops, and conferences and providing education. Yet, it is often challenging to determine if these activities have contributed to U.S. objectives—whether at the level of national security, department, COCOM, or service—and if so, by how much or in what ways. Because security cooperation is both dispersed and long-term, it is difficult to measure. At present, program assessments are inconsistent and of varying quality. They may lack objectivity since they

³³ National Guard Bureau, International Affairs Division, *Memorandum for National Guard State Partnership Program Coordinators, Fiscal Year 2011 State Partnership Program Funding Guidance*, October 29, 2010,

³⁴ “The State Partnership Program accounts for 45% of European Command’s military-to-military engagement....The true value of this program is the enduring relationships that have been built over time, as many of European Command’s state partnerships are approaching their twenty-year anniversaries. Perhaps the greatest example of how critical these relationships are is that in 2010 National Guard personnel deployed to Afghanistan together with five partner nations as members of Observer Mentor Liaison Teams and other forces training and fighting side-by-side.” Statement of James G. Stavridis, Commander, United States European Command, before the Senate Armed Services Committee, March 29, 2011. “The State Partnership Program is a superb tool that fosters a variety of military-to-military, military-to-civilian, and civilian-to-civilian engagements using National Guard and U.S. states’ capabilities... The State Partnership Program delivers programs and activities that build broad capabilities with our African partners. The habitual relationships this builds adds tremendous value to our efforts. This program is very valuable to U.S. Africa Command, and we look forward to expanding it as our African partners request greater participation. I urge your continued support.” Statement of General William E. Ward, Commander, United States Africa Command, before the Senate Armed Services Committee, March 9, 2010.

are frequently conducted by the organizations that implement the programs. A comprehensive framework for assessing is lacking, although efforts are in place to remedy that deficiency.³⁵

The NGB's International Affairs Division is currently developing "measures of effectiveness" that will be used in the future to measure progress toward achieving program goals.

What Role Should the State Department Play in SPP Administration and Oversight?

Some policymakers may argue for a larger State Department role in SPP administration and oversight from Washington, especially if they are concerned about the expansion of DOD into foreign assistance-type activities. The Secretary of State is, by law, responsible for the direction and oversight of all military education and training programs, no matter what title they fall under.³⁶ This duty is exercised directly for the traditional education and training programs governed by Title 22 (Foreign Affairs) authorities. For Title 10 and other DOD authorities with a training and education aspect, as well as for other foreign assistance activities, specific requirements for the Secretary of State's concurrence or consultation are sometimes written into the law.³⁷ In addition, the DOS has primary responsibility and authority for all foreign assistance activities.³⁸ Nevertheless, Congress has increasingly authorized DOD, through Title 10 or annual legislation, to conduct security assistance and security cooperation programs. Some policymakers and analysts have viewed this trend as detrimental to coherent U.S. foreign policymaking and conduct over the long run.³⁹ Others view security cooperation as an increasingly important "core competency" of the U.S. military and advocate a broader role for the Department of Defense in security assistance and security cooperation.

³⁵ Jennifer D. P. Moroney, Jefferson P. Marquis, and Cathryn Quantic Thurston, et al., *A Framework to Assess Programs to Build Partnerships*, RAND National Defense Research Institute, 2009, p. xiii, <http://www.rand.org>.

³⁶ The Foreign Assistance Act of 1961, as amended (FAA, P.L. 87-195), provides in Section 622(c) (22 U.S.C. 2382) that the Secretary of State, under the direction of the President, "shall be responsible for the continuous supervision and general direction of economic assistance, military assistance, and military education and training programs... to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby." The FAA (Section 644) states "'Military education and training' includes formal or informal instruction of foreign students in the United States or overseas by officers or employees of the United States, contract technicians, contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aids, orientation, and military advice to foreign military units and forces." (22 U.S.C. 2403(n))

³⁷ For more on DOD education and training and other foreign assistance and foreign assistance-type authorities and activities, see CRS Report RL34639, *The Department of Defense Role in Foreign Assistance: Background, Major Issues, and Options for Congress*, coordinated by Nina M. Serafino. See also CRS Report R41817, *Building the Capacity of Partner States Through Security Force Assistance*, by Thomas K. Livingston.

³⁸ The U.S. Army *Operational Law Handbook* for 2010 notes the State Department's legal authority to conduct foreign assistance (citing 22 U.S.C. 2151, FAA Section 101) and states that "The general rule in Funding U.S. Military Operations is that the Department of State (DoS) has the primary responsibility, authority, and funding to conduct Foreign Assistance on behalf of the USG [U.S. Government]. Foreign assistance encompasses any and all assistance to a foreign nation, including Security Assistance (assistance to the internal police forces and military forces of the foreign nation), Development Assistance (assistance to the foreign government in projects that will assist the development of the foreign economy or their [sic] political institutions), and Humanitarian Assistance (direct assistance to the population of a foreign nation)." Judge Advocate General's Legal Center and School, U.S. Army, *Operational Law Handbook*, Charlottesville, VA, 2010, pp. 223-224.

³⁹ For more information on this, see CRS Report RS22855, *Security Assistance Reform: "Section 1206" Background and Issues for Congress*, by Nina M. Serafino.

SPP activities are currently conducted under Title 10, Title 32⁴⁰ and National Defense Authorization Act authorities. A few of these authorities require a State Department role, but even then the mandates are not consistent. Events conducted under 10 U.S.C. 168 (Military to Military Contacts), 10 U.S.C. 401 (Humanitarian and Civic Assistance), and Section 1206 (P.L. 109-163, as amended, Building Partnership Capacity) require the approval of the Secretary of State; 10 U.S.C. 2010 (Participation of Developing Countries in Combined Exercises) requires consultation with Secretary of State; and 10 U.S.C. 2557 (Excess-Non-Lethal Supplies) involves the Secretary of State. (For most of these, however, the Secretary of State apparently has delegated coordination responsibility.) The remaining authorities used for SPP events (see **Appendix B**) have no statutory requirement for any level of State Department involvement. However, in the case of at least one authority, 10 U.S.C. 2249c (Regional Defense Combating Terrorism Fellowship Program), DOD and the State Department have established an informal coordination system.

Currently, the State Department does not play a systematic role in SPP administration and oversight globally. Unlike some other DOD security cooperation activities, no one at the State Department is charged with the responsibility of overseeing all SPP programs. State Department involvement is focused at the embassy level, where the ambassador (or other chief of mission) must approve SPP proposals. At the State Department itself, country desk officers are informed of SPP activities. Issues arising from SPP missions are handled by the country desks and their regional bureaus. In addition, the Bureau of Political-Military Affairs and Office of the Special Representative for Global Intergovernmental Affairs (S/SRGIA) often engage the NGB on policy matters pertaining to the SPP.

Should SPP Have a Dedicated Statutory Authority?

To some Members of Congress, the expansion of the SPP to 63 partnerships over the past two decades requires that they be conducted under a new, coherent, overarching SPP authority, rather than under multiple and diverse Title 10 and NDAA authorities. From this perspective, a single statute could provide a clear, coherent, and permanent framework for the National Guard to conduct SPP activities, clarifying purposes and permitted events, standardizing interagency coordination, and regulating the use of funds. For instance, a dedicated SPP statute might be used to set a single standard for State Department input. It might also be used to mandate centralized oversight of the program. Currently, the NGB approves activities that it funds, and the COCOMs exercise approval over SPP activities that they fund. No single organization, however, is responsible for overseeing and standardizing all activities. The lack of a set of standards for SPP and of a single oversight body may have contributed in the past to confusion about what constitutes an appropriate SPP event; some past SPP events might have been outside the scope of the statutes involved.

Should the Contours of the Program Be Modified?

Among those interviewed for this report, a number who were directly involved with SPP suggested that the program could better serve U.S. interests if it were modified in one or more of the following ways. One approach would focus the program on specific mission sets in which the National Guard has particular expertise or civilian acquired skills. Another approach would allow greater participation by U.S. civilians in SPP events. A third perspective would include a wider

⁴⁰ Title 32 is only used for SPP events conducted within the United States. 32 U.S.C. 502 is used to place National Guard personnel in a duty status, permitting them to receive appropriate military pay and benefits.

range of foreign civilians as participants. However, such changes were critiqued by other individuals interviewed.

Types of Missions Performed

The National Guard is a unique organization in that it is both a state and a federal entity. In its federal status, the National Guard is a reserve component of the Army and Air Force, and focuses on developing and using military skills. As a state organization, however, it focuses largely on emergency management, particularly with respect to natural disasters, and responding to civil disorders. This expertise can be especially valuable to partner nations in which the military plays a leading role in responding to natural disasters, securing the nation's borders, or controlling civil unrest. Some supporters of the SPP argue that the program should be reshaped to recognize this unique niche that the National Guard can fill. On the other hand, this could open the program and participants to scrutiny if partner nation personnel were trained in a manner inconsistent with military doctrine, were trained on topics not covered by military doctrine, or received inconsistent training due to the varied backgrounds of the instructors.

Scope of U.S. Participation

Some supporters of the SPP argue that, while remaining “Guard-centric,” it should be adapted to become a “whole of government” program. From this perspective, the National Guard would remain the backbone of the program, but federal, state, and local government employees should also be allowed to participate in the program if they could contribute effectively to a given event. Under this vision, if a SPP event in a foreign country were to focus on emergency management, there might be participants from the Federal Emergency Management Agency, the state emergency management agency, and local first responders in addition to the National Guard participants.

Another aspect of this concept would allow National Guard personnel to participate based on their civilian acquired skills, rather than just their military skills. This would allow the National Guard to provide a broader array of expertise to foreign nations in support of U.S. objectives. For example, some National Guard personnel have civilian employment with police or other law enforcement institutions. Their civilian expertise could be used to share information and advice with countries in which the United States had a strong interest in enhancing the administration of justice and rule of law. However, permitting this would likely raise concerns about the content of the information provided, to ensure that it supports U.S. objectives, and the need to standardize the program of instruction for the purpose of consistency.

Such a shift in the staffing and nature of SPP events might call into question the management of the SPP by DOD. With a broader array of governmental participation, the DOS might be better suited to oversee the program, perhaps with DOD as the executive agent.

Authorized Foreign Participants

The NGB recently issued guidance for SPP events that it funds which limits participation by foreign civilians (see “Recent Legislative and Executive Branch Activity”). Under this guidance, foreign civilians could participate in an SPP event in certain circumstances—for example, if they worked for the foreign nation Ministry of Defense (MOD), or in certain cases if they were invited by the MOD—but funding for engagements with other foreign civilians were generally not authorized. Some supporters of SPP argue that these restrictions do not always correspond well with the structure of foreign governments, and that they erect a barrier to what have in the past been fruitful areas of cooperation. With respect to the first point, supporters note that some

countries have armed forces that do not fall under the MOD, but may instead fall under a border security agency or an independent counterterrorism agency. With respect to the second point, supporters argue that foreign civilian agencies often play a critical role in the stability and security of their nations, and interacting with these agencies can advance U.S. security interests. For example, they note that non-defense ministries—such as a Ministry of Interior or a Ministry of Emergency Situations—often have “security sector” type responsibilities.

Options for Congress

Monitor Implementation of the Directive Type Memorandum

The DOD regulations regarding funding for activities conducted under the SPP, as required by Section 1210 of the FY2010 National Defense Authorization Act, are supposed to be finalized in the near future by way of a Directive Type Memorandum (DTM). The DTM will subsequently be converted into a Department of Defense Instruction (DODI). Monitoring its implementation will allow Congress to determine whether it effectively defines appropriate activities and constrains unauthorized activities. It should also provide Congress with additional information on areas of the program that merit particular attention if Congress later elects to codify the program in law. However, as the DTM is bound by existing statutory guidance, it will have a limited ability to resolve some of the tensions relating to types of missions performed, authorized participants, and oversight responsibilities.

Direct Periodic Evaluations

To ensure that the SPP is contributing substantially to U.S. objectives, and in a cost-effective manner, Congress may wish to review the SPP’s program goals, assessment methodology, and internal assessments. Congress may also wish to evaluate how robustly SPP events support key plans, including combatant commanders’ Theater Campaign Plans (TCPs) and U.S. ambassadors’ Mission Strategic and Resource Plans (MSRPs). It could do this through committee hearings or by requiring periodic reports to Congress on the topic. Alternatively, it could direct a review by an external agency, such as the Government Accountability Office.

Require Centralized Approval of SPP Activities

NGB currently exercises approval authority over any activities that it funds, but not over activities that COCOMs fund. Each COCOM exercises approval authority over SPP activities within its area of responsibility, but not over activities elsewhere. There is no centralized oversight of the program. This may increase the possibility of mistakes being made in the administration of the program. Requiring a single organization—such as NGB, the Defense Security Cooperation Agency, or the Department of State—to have approval authority over all SPP activities might facilitate a more standardized approach to the program and thereby improve program administration. On the other hand, adding an additional layer of management could make event coordination cumbersome.

Codify the State Partnership Program in Law

Because of the wide array of statutory authorities and funding sources that SPP currently draws upon, it takes significant effort and legal guidance to determine which SPP activities are permissible and which are not. This may generate confusion and lead to approval of SPP activities

that are outside the scope of the law. Therefore, Congress may consider establishing specific parameters for SPP activities in law.

Depending on the content of the DTM that DOD is currently developing for the SPP, Congress may consider a variety of statutory responses. Congress could codify that guidance if it sets adequate standards and procedures to ensure the appropriate use of funds and adequate oversight. If the DOD guidance lacks those elements, Congress may develop its own guidelines for the program. This authority might contain a list of the type of events permitted, the purposes they are to serve, the appropriate funding sources, a mandate for State Department approval or consultation, and periodic reports to Congress. This approach might have drawbacks. Depending on how it is drafted, such a law might restrict the current broad range of SPP activities and impose new requirements that limit flexibility and timeliness. SPP activities may also be more difficult to implement under a law if it contains more coordination requirements than under current authorities governed by unifying DOD guidance.

If Congress chooses to codify the program in law, some areas that may deserve particular attention are detailed below.

Authorized Activities and Participants

Some have advocated modifications to the current program focusing on missions sets in which the National Guard has particular military expertise or in which National Guard personnel have civilian expertise, allowing certain U.S. civilians and a wider range of foreign civilians to participate in SPP events. Congress may include language that details the scope of authorized activities, the extent to which U.S. citizens other than members of the National Guard can participate, and the types of foreign personnel they can engage. It may require standardized programs of instruction for topics that fall outside of current military doctrine. If state, local, or private sector individuals are allowed to participate in SPP, Congress may establish the circumstances under which their participation can be funded by the federal government and provide for reimbursement mechanisms in other circumstances.

Effectiveness

Though determining the effectiveness of security cooperation programs such as SPP is inherently challenging, it is an area that Congress may wish to address in any SPP statute. To this end, Congress may consider defining certain program goals in law, provide some guidance on an assessment methodology, stipulate the frequency of assessments, assign responsibility to a particular office, and require periodic reports from the executive branch on the topic.

Role of the State Department

If Congress were to adopt a new statute governing the SPP, some may question whether it should be placed under Title 10 of the *U.S. Code*, which covers the armed forces, or Title 22, in which the State Department generally has the lead. Those who prefer Title 10 would note that SPP activities are currently conducted under Title 10 and NDAA authorities, and that SPP funding is provided through the DOD budget. In addition, SPP programs may be more flexible and easier to implement under Title 10.

On the other hand, the State Department has used the National Guard for Title 22 training activities with their foreign partners (see **Appendix C**), and some Members may prefer that SPP events be placed under Title 22. SPP events may have side effects for foreign policy not anticipated by state government and DOD planners or ambassadors. Some may argue for greater

State Department oversight to ensure that state governments are aware of foreign policy concerns and guidelines, especially if these events are accompanied by or lead to non-defense-related engagements of U.S. and foreign civilians.

If placed under Title 22, the program could take on more of a public diplomacy role. For example, Congress might more readily provide authority under Title 22 for SPP to use National Guard troops for activities using their civilian skills instead of just their military skills. Similarly, under Title 22 authority Congress might be more willing to dispense with the requirement under some Title 10 authorities used for SPP that the primary purpose of training events be the training of U.S. forces, possibly providing a broader range of activities for SPP.

Placing SPP under Title 22, however, may well add another layer of complexity for state-based organizations with little experience operating with the Department of State. It might weaken the ability of the combatant commanders to use SPP to engage with foreign militaries, and thereby reduce their interest in supporting the program. In addition, placing SPP under Title 22 might shift the focus away from using the military skills of the National Guard personnel in favor of their civilian expertise, which could limit the utility of SPP in exercising the military skills of participants. Finally, State Department capacity to oversee military programs is viewed as having limitations and some may argue for augmenting this capacity before adding additional duties.

Appendix A. State Partnerships: Table and World Map

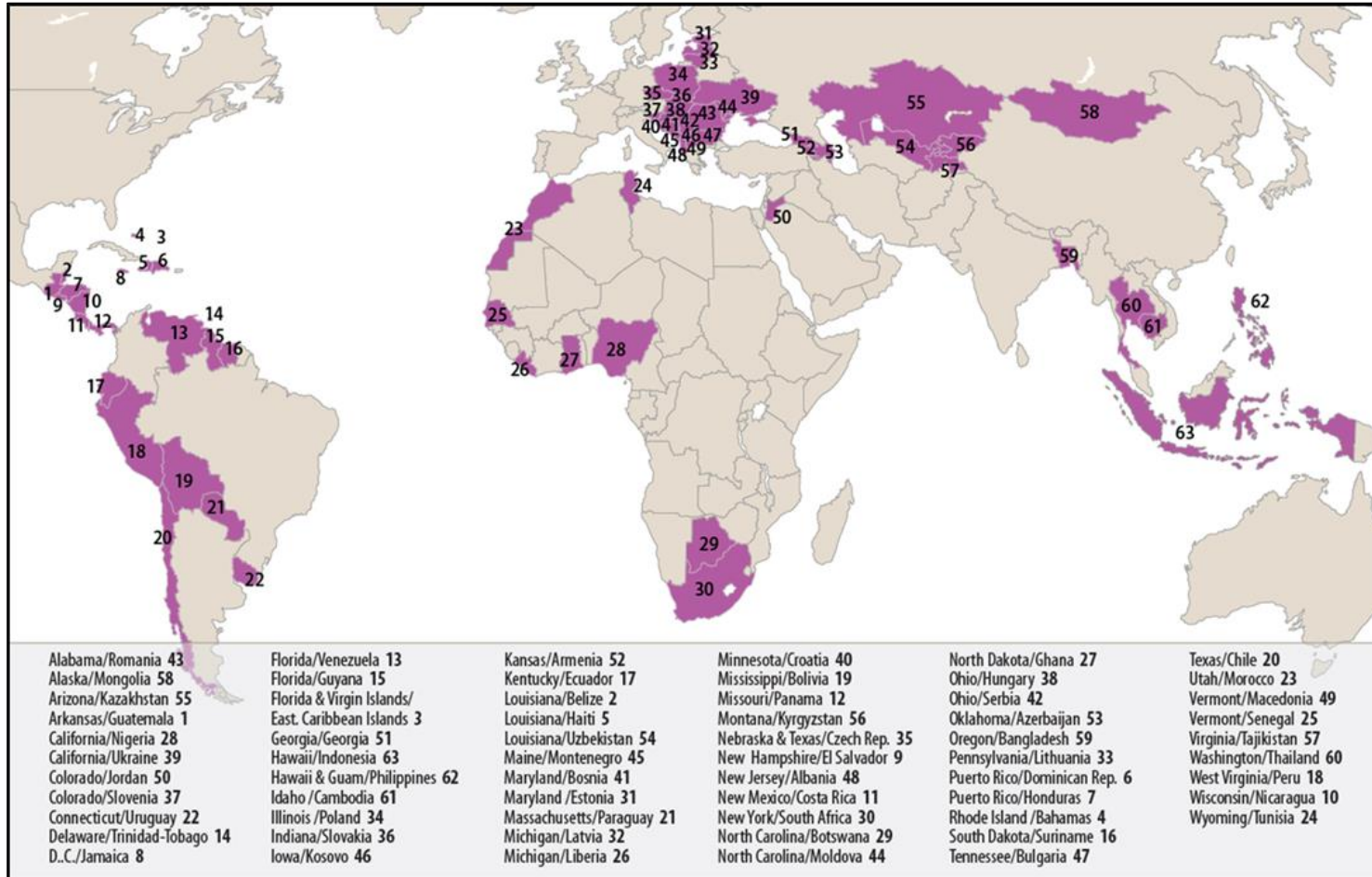
Table A-1. List of State Partnerships as of July 2011

Alabama / Romania	Kansas / Armenia	North Carolina / Moldova
Alaska / Mongolia	Kentucky / Ecuador	North Dakota / Ghana
Arizona / Kazakhstan	Louisiana / Belize	Ohio / Hungary
Arkansas / Guatemala	Louisiana / Haiti	Ohio / Serbia
California / Nigeria	Louisiana / Uzbekistan	Oklahoma / Azerbaijan
California / Ukraine	Maine / Montenegro	Oregon / Bangladesh
Colorado / Jordan	Maryland / Bosnia	Pennsylvania / Lithuania
Colorado / Slovenia	Maryland / Estonia	Puerto Rico / Dominican Republic
Connecticut / Uruguay	Massachusetts / Paraguay	Puerto Rico / Honduras
Delaware / Trinidad-Tobago	Michigan / Latvia	Rhode Island / Bahamas
District of Columbia / Jamaica	Michigan / Liberia	South Dakota/Suriname
Florida / Venezuela	Minnesota / Croatia	Tennessee / Bulgaria
Florida / Guyana	Mississippi / Bolivia	Texas / Chile
Florida & Virgin Islands / Regional Security System (Eastern Caribbean Islands)	Missouri / Panama	Utah / Morocco
Georgia / Georgia	Montana / Kyrgyzstan	Vermont / Macedonia
Hawaii / Indonesia	Nebraska & Texas/Czech Republic	Vermont / Senegal
Hawaii & Guam / Philippines	New Hampshire / El Salvador	Virginia / Tajikistan
Idaho / Cambodia	New Jersey / Albania	Washington / Thailand
Illinois / Poland	New Mexico / Costa Rica	West Virginia / Peru
Indiana / Slovakia	New York / South Africa	Wisconsin / Nicaragua
Iowa / Kosovo	North Carolina / Botswana	Wyoming / Tunisia

Source: National Guard Bureau.

Note: The Regional Security System, partnered with the Florida and U.S. Virgin Island National Guard, is a collective security agreement for seven island nations in the Eastern Caribbean: Antigua and Barbuda, Barbados, Dominica, Grenada, Saint Kitts and Nevis, Saint Lucia, and Saint Vincent and the Grenadines.

Figure A-1. Map of State Partnerships as of July 2011



Source: Congressional Research Service, based on data provided by the National Guard Bureau.

Notes: Numbers on the map refer to the specific state partnership listed below the map with the same number.

Appendix B. Title 10 and National Defense Authorization Act Authorities That May Be Used by the SPP

Table B-1. Title 10 and NDAA Authorities Used by the SPP

Statutory Authority	Purposes
10 USC 166a	<i>Combatant Commanders Initiative Fund.</i> The Chairman of the Joint Chiefs of Staff may make funds available to Combatant Commanders for a variety of purposes, including joint exercises, humanitarian and civic assistance, military education and training for foreign military and related civilian personnel, and personnel expenses of defense personnel for bilateral and regional cooperation programs.
10 USC 168	<i>Military to Military Contacts</i> (also referred to as Traditional Commander's Activities). Authorizes the Secretary of Defense "to conduct military to military contacts and comparable activities that are designed to encourage a democratic orientation of defense establishments and military forces of other countries." Authorized activities include traveling contact teams, military liaison teams, exchanges of military personnel between U.S. and foreign units, exchanges of military and civilian personnel between DOD and a foreign defense ministry, seminars and conferences held primarily in a theater of operations, reimbursement of military personnel appropriations accounts for the pay and allowances of reserve component personnel engaged in such activities, and the assignment of DOD civilians and military personnel on a non-reciprocal basis. No activities may be conducted under this authority in a foreign country without the approval of the Secretary of State.
10 USC 184	<i>Regional Centers for Security Studies.</i> Authorizes the Secretary of Defense to administer five regional centers for security studies, which are to serve as forums for "bilateral and multilateral research, communications, and exchange of ideas involving military and civilian participants." The five centers are the George C. Marshall European Center for Security Studies in Germany, the Asia-Pacific Center for Security Studies in Hawaii, the Center for Hemispheric Defense Studies in Washington, DC, the Africa Center for Strategic Studies in Washington, DC, and the Near East South Asia Center for Strategic Studies in Washington, DC. Participants may include military, civilian, and non-governmental personnel from the United States and foreign countries.
10 USC 401	<i>Humanitarian and Civic Assistance Provided in Conjunction with Military Operations.</i> The Secretary of a military department may carry out humanitarian and civic assistance activities in conjunction with ongoing military operations as the Secretary determines it will be beneficial to the security interests of both the U.S. and the affected foreign country, and will promote the operational readiness skills of the U.S. military personnel who participate. The Secretary of State must approve any such assistance. Humanitarian and civic assistance as defined in this statute includes medical, surgical, dental, and veterinary assistance to underserved areas, including education, training, and technical assistance related to the care provided; construction of rudimentary roads; well drilling and constructing basic sanitation facilities; and rudimentary construction and repair of public facilities.
10 USC 402	<i>Transportation of Humanitarian Relief Supplies to Foreign Countries.</i> The Secretary of Defense may transport humanitarian relief supplies furnished by a non-governmental source to any country, on a space-available basis, without charge. This authority may also be used in certain circumstances to transport supplies to respond to an event that threatens environmental harm (such as an oil spill).
10 USC 404	<i>Foreign Disaster Assistance.</i> At the direction of the President, the Secretary of Defense may provide transportation, supplies, services and equipment outside the United States to respond to natural or man-made disasters, in order to save lives or prevent serious harm to the environment.

Statutory Authority	Purposes
10 USC 1050	<i>Latin American Cooperation: Payment of Personnel Expenses.</i> “The Secretary of Defense or the Secretary of a military department may pay the travel, subsistence, and special compensation of officers and students of Latin American countries and other expenses which the Secretary considers necessary for Latin American cooperation.”
10 USC 1051	<i>Multilateral, Bilateral, or Regional Cooperation Programs: Payment of Personnel Expenses.</i> “The Secretary of Defense may pay the travel, subsistence, and similar personal expenses of developing countries in connection with the attendance of such personnel at a multilateral, bilateral, or regional conference, seminar, or similar meeting if the Secretary determines that the attendance of such personnel...is in the national security interests of the United States” and such other expenses in connection with the meeting as the Secretary considers in the national security interests of the United States. Normally, these expenses may only be paid for travel to, from, or within the area of responsibility of the combatant command in which the conference, seminar or meeting is held, with exceptions.
10 USC 2249c	<i>Regional Defense Combating Terrorism Fellowship Program.</i> Under regulations prescribed by the Secretary of Defense, DOD funds may be used to pay any costs associated with the education and training of foreign military officers, defense officials, or security officials at educational institutions, regional centers, conferences, seminars, or other training programs conducted under the Regional Defense Combating Terrorism Program. Expenditures capped at \$35 million per fiscal year.
10 USC 2557	<i>Excess Non-Lethal Supplies.</i> The Secretary of Defense may provide excess non-lethal DOD supplies for humanitarian relief purposes. Such supplies must be transferred to the Secretary of State, who is responsible for distribution.
10 USC 2561	<i>Humanitarian Assistance.</i> Funds authorized to be appropriated to DOD for humanitarian assistance shall be used to provide transportation of humanitarian relief and for other humanitarian purposes. The Secretary of Defense may use funds authorized for humanitarian assistance to transport supplies intended to be used to respond to events that threaten serious harm to the environment (such as an oil spill) if other sources are not available.
Section 1082, P.L. 104-201	<i>Agreements for Exchange of Defense Personnel Between the United States and Foreign Countries.</i> The Secretary of Defense may enter into agreements to exchange military and civilian personnel of DOD with military and civilian personnel of a foreign defense ministry. Exchanged personnel may be assigned to positions as instructors; DOD personnel may be assigned to positions in private industry that support the foreign defense ministry.
Section 1206, P.L. 109-163	<i>Authority to Build Capacity of Foreign Military Forces.</i> “The President may direct the Secretary of Defense to conduct or support a program to build the capacity of a foreign country’s national military forces in order for that country to (1) conduct counter-terrorist operations; or (2) participate in or support military and stability operations in which the United States Armed Forces are a participant.” Such a program may include providing equipment, supplies, and training. The program shall include elements that promote respect for human rights and fundamental freedoms and respect for legitimate civilian authorities within that nation. The program shall be jointly developed by the Secretary of Defense and the Secretary of State, and the Secretary of Defense shall coordinate with the Secretary of State on its implementation.
Section 1207, P.L. 111-84	<i>Authority for Non-Reciprocal Exchanges of Defense Personnel Between the United States and Foreign Countries.</i> The Secretary of Defense may enter into agreements with the governments of allied or friendly foreign countries for the exchange of military and civilian personnel of the foreign defense ministry. They may be assigned to positions in the Department of Defense.

Source: Title 10, United States Code, and cited public laws.

Appendix C. State Partnerships and Title 22 Authorities

According to NGB representatives, the SPP currently operates only under Title 10, Title 32 and National Defense Authorization Act authorities. Under this definition, therefore, SPP events do not occur under Title 22 authorities at the present time. However, there are circumstances in which a state National Guard might operate under Title 22 authorities in support of their partner nation. For example, a nation that is approved to receive peacekeeping training under the Global Peace Operations Initiative (GPOI) may request that the state National Guard it is partnered with provide some of the trainers. If such a request were approved by the appropriate DOS and DOD officials, then GPOI funds would be used to fund some of the expenses associated with the state National Guard training of its partner nation's forces. While these are not considered to be "SPP events" by NGB, the distinction may not be apparent to many of those participating in the training.

Individuals interviewed for this report referred to three Title 22 authorities that have been used in the past to fund training by a state National Guard with its partner nation. They are listed below. Determining the frequency of such Title 22 events was outside the scope of this report, but they appear to have been relatively infrequent in comparison to the frequency of Title 10 SPP events. Appropriations for these three Title 22 programs are provided under the State Department's Security Assistance (previously the Military Assistance) account.

Global Peace Operations Initiative. Through GPOI the U.S. government provides foreign military forces from developing countries with training in peacekeeping skills and helps develop associated peacekeeping capacity. GPOI was built on the earlier African Contingency Operations Training and Assistance (ACOTA) program and its Africa component often is still referred to by that acronym. The State Department is primarily responsible for the program, but works closely with DOD to plan and implement programs through DOD's Defense Security Cooperation Agency (DSCA) and the geographic Combatant Commands. Authorization is provided by Section 551 of the Foreign Assistance Act of 1961 (FAA, P.L. 87-195; 22 U.S.C. 2348), as amended.

International Military Education and Training Program. The IMET program provides foreign military personnel with the opportunity to attend a variety of U.S. military educational institutions and training courses. The Expanded-IMET (E-IMET) component provides foreign civilian and military leaders and managers of foreign military establishments with opportunities to enhance their skills in managing and administering military establishments and budgets, creating and maintaining effective military judicial systems and military codes of conduct (including observance of international recognized human rights), and fostering respect for the principle of civilian control of the military. The State Department, with input from DOD, decides which foreign countries will be permitted to participate and their respective funding levels. DOD's DSCA implements the program. Authorization is provided by Section 541 of the Foreign Assistance Act (FAA, P.L. 87-195; 22 U.S.C. 2347), as amended.

Foreign Military Sales and Foreign Military Financing Programs. The FMS program is the United States government's primary vehicle for sales of weapons and associated equipment and training to friendly foreign governments. Through the FMF element of the program, the U.S. government may extend loans to countries that have difficulty paying for needed weapons, military equipment, and related items, or it may forgive payments altogether. The State Department is primarily responsible for determining which nations receive military assistance from this program. DOD's DSCA bears primary responsibility for implementing the program. FMS is authorized by Sections 1-4 of the Arms Export Control Act (AECA, P.L. 90-629; 22

U.S.C. 2751 - 2754), as amended; FMF is authorized by Section 23 of the AECA (22 U.S.C. 2763).

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